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MAURITIUS

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1. Mauritius is an island of 720 square miles found in the south-west of the Indian Ocean and which has a population of about 1.2 million. The island obtained its independence from the British in 1968. Her Majesty the Queen of Great Britain was the head of State until 1992 when Mauritius adopted a republican status. There exists a parliamentary democracy led by a Prime Minister, assisted by a Council of Ministers consisting of 21 ministers. The head of State is the President who is elected by a majority of all members of the Assembly on a motion made by the Prime Minister.

2. The State of Mauritius holds fair and free national and local elections at regular intervals. These elections are supervised by an independent Electoral Commission. The National Assembly consists of 70 members of whom 62 are elected and the remaining 8 are selected from among the best losers at the elections on a communal and party basis.

3. The economy is based on export-oriented manufacturing (mainly textiles), sugar and tourism. About 85 per cent of agricultural land is planted with sugar cane. The latest economic indicators point to a low inflation rate of 6 per cent as at end December 1995. The economy achieved an annual growth rate of about 5.3 per cent during 1995. Per capita income almost doubled over a span of six years to attain approximately US$ 3,400 in 1995.

4. On the recommendation of the National Remuneration Board the Government establishes minimum wages which vary accordingly to the sector of employment and reviews minimum wages each year based on inflation. The actual income for most workers is higher than the recommended minimum wages, due to the present shortage of labour. The standard legal number of working hours is embodied in the concept of the 40-hour week. The Government sets health and safety standards; the factory inspectors of the Ministry of Labour ensure that

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employers comply with the health and safety requirements. Sanctions of a penal nature are provided for by law in cases of non-compliance with the said requirements.

5. In the context of the policy of Government to maintain the welfare state, free health services are available to the population. Private clinics also exist to cater for the needs of those who choose to pay for their treatment. Education is free up to the tertiary level whilst primary education is compulsory by law for all children.

6. There is no State religion and the Government does not interfere with or restrict worship by any religious denomination. Freedom of religion as propounded in the Constitution is of special importance in view of the social fabric of Mauritian society which comprises elements of all races, cultures and religions.

7. The Constitution of Mauritius, a written document bequeathed to us by an Order-in-Council of the British Government at the time of independence in 1968, rests on two fundamental tenets: the rule of law and the doctrine of the separation of powers. It is provided under section 1 of the Constitution that the Republic of Mauritius shall be a "sovereign democratic State", this is clearly in consonance with the fundamental rights and freedoms guaranteed under chapter II of the Constitution which was largely copied from the European Convention on Human Rights.

8. The Constitution being the "supreme law of the land", it is the duty of the court not only to interpret but also to ensure obedience to its provisions. It is up to the Supreme Court to determine the validity of any statute which is alleged to be unconstitutional because no law which contravenes the Constitution can be suffered to survive.

9. The Court's primary concern in any case where a contravention of the Constitution is proved, is to ensure that such contravention is redressed as conveniently and expeditiously as possible.

10. The Constitution itself makes provision under section 17 for redress for any individual whose rights have been contravened under chapter II.

11. Even where the law makes provision for disciplinary offences to be dealt with by certain tribunals or Service Commissions (by bestowing upon them special jurisdiction to that effect), decisions taken by such bodies are ultimately reviewable by the Supreme Court. Most of the provisions of the International Covenant on Civil and Political Rights are already catered for by chapter II of the Constitution.

12. In addition to existing provisions of national law, the Covenant itself may be referred to in Mauritian courts. The provisions of the Covenant are of a persuasive character in view of the frequent pronouncements of the courts emphasizing the importance of respecting and adhering to international obligations entered into by the State. It is to be noted, however, that the terms of the Covenant as such are not directly enforceable by our courts.

13. In addition to the normal channels of complaint through the police authorities, citizens of the Republic of Mauritius may have recourse to the office of the Ombudsman and/or the office of the Director of Public Prosecutions. Section 97 of the Constitution provides as follows:

> "... the Ombudsman may investigate any action taken by any officer or authority to which this section applies in the exercise of administrative functions of that officer or authority, in any case in which a member of the public claims or appears to the Ombudsman, to have sustained injustice in consequence of maladministration in connection with the action so taken and in which:
>
> "(a) a complaint under this section is made;
>
> "(b) he is invited to do so by any Minister or other member of the Assembly; or
>
> "(c) he considers it desirable to do so of his own motion."

14. Members of the public may write directly to the Director of Public Prosecutions where they are not satisfied that a case is being dealt with diligently by the police. Powers are bestowed upon the Director of Public Prosecutions under section 64 of the District and Intermediate Courts (Criminal Jurisdiction) Act to request a magistrate to hold an inquiry into the cause of death and circumstances connected therewith when a person has died in prison or whilst in police custody. These inquiries are normally held in open court and all interested parties may be assisted by their legal advisers. The findings of the magistrate are then referred to the Director of Public Prosecutions who then decides on the course of action to be taken. It is to be noted that the Director of Public Prosecutions is appointed by the Judicial and Legal Service Commission, an independent body, as per section 72 of the Constitution.

Judicial system

15. The judicial system in Mauritius is largely inspired by the British traditions which practises the adversarial system of litigation. It consists of the Supreme Court, the Intermediate Court and the District Courts which all have jurisdiction in civil and criminal matters. The Supreme Court has unlimited jurisdiction to hear and determine any civil or criminal proceedings.

16. The Supreme Court is the principal court of original criminal jurisdiction and holds sessions for the despatch of criminal business called the Assizes. Those criminal trials before the Supreme Court are held before a Presiding Judge and a jury consisting of nine persons, and relate to very serious offences such as murder and manslaughter. Provision is also made for the prosecution of certain offences, including offences under the Dangerous Drugs Act, before the Supreme Court without a jury. Death penalty has been abolished and instead, the Court may only inflict penal servitude for life.

17. In addition under section 82 of the Constitution, the Supreme Court has jurisdiction to supervise any civil or criminal proceedings before any subordinate court and make such orders as it considers necessary. The Supreme Court also has an appellate jurisdiction whereby it can review the decision of one of its own judges as well as those of subordinate courts.

18. The decisions of the appellate division are in turn subject to appeal to the Judicial Committee of the Privy Council on matters of general public importance. The Chief Justice presides over the Supreme Court with the assistance of a senior puisne judge and seven puisne judges.

19. The Intermediate Court and District Court are presided over by Magistrates. They deal with most criminal matters while the jurisdiction of these courts in respect of civil matters is subject to monetary threshold.

20. Defendants have the right to retain private counsel of their choice. However, in certain circumstances where there are genuine financial constraints or a likelihood of his constitutional rights being infringed, a party may be granted legal aid upon making an application to the court.

21. We have a strong and healthy Bar consisting of barristers assisted by attorneys and notaries who do mainly conveyancing and formation of companies. Barristers are either trained in Britain and are called to the Bar at one of the Inns of Court in London or are qualified in Mauritius after passing the vocational examinations of the Council of Legal Education.